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November 1, 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

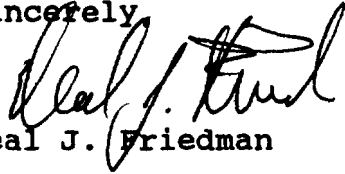
Re: KMSM-FM, Butte, MT

Dear Mr. Caton:

Transmitted herewith on behalf of the Montana College of Mineral Sciences and Technology, licensee of the above-referenced non-commercial, educational FM station, are an original and two (2) copies of its Petition for Rule Making.

Should you or the staff have any questions, kindly contact the undersigned.

Sincerely,

  
Neal J. Friedman

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) RM-\_\_\_\_  
Table of Allotments. )  
FM Broadcast Stations. )  
Butte, Montana )

TO: Chief, Allocations Branch

PETITION FOR RULE MAKING

The Montana College of Mineral Sciences and Technology, licensee of non-commercial, educational station KMSM-FM, Butte, Montana, by its attorney and pursuant to Section 1.401 of the Rules of the Commission, hereby petitions to amend Section 73.202 of the Rules as follows:

	CHANNEL NO.	
CITY	PRESENT	PROPOSED
Butte, Montana	224A, 231C, 238C	224A, 231C, 238C, *295A

In support thereof, the following is shown.

KMSM-FM is presently licensed to operate on Channel 218 (91.5 MHz) with an ERP of 0.165 KW at -98 meters HAAT. KMSM-FM is required to use these minimal facilities because of the proximity of KTVM(TV), Channel 6, also licensed to Butte. As set forth in the engineering analysis prepared in 1987<sup>1/</sup> and attached hereto as Exhibit 1, KMSM could only increase its facilities on the present channel by co-locating at the KTVM(TV) tower. That tower is located atop a mountain and is inaccessible except by the use of

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<sup>1/</sup> Although the engineering report was prepared in 1987, there has been no change in the facilities of KTVM(TV) since then that would alter the facts.

expensive special equipment during the winter months. KMSM(FM) would also face the additional cost of installing its antenna at the site, payment of rent to the owner of the tower and the costs of constructing and operating a studio-transmitter link ("STL"). This would require an additional and unnecessary expense for a non-commercial station operating on a limited budget. See Declaration of Ross Metcalfe, General Manager of KMSM(FM), attached as Exhibit 2.

KMSM(FM) would be able to upgrade to full Class A facilities from its present site at far less cost by the simple expedient of relocating to Channel \*295. As shown by Exhibit 3, this channel meets the spacing requirements of Section 73.207 of the Rules.

It is well established that non-commercial FM stations are normally limited to the reserved band pursuant to Section 73.501 of the Rules, but may also operate in the commercial band under Section 73.513 of the Rules provided they meet the technical requirements for commercial stations.

The Commission has permitted non-commercial stations to obtain reserved allocations in the commercial band under special circumstances. Siloam Springs, Arkansas, 2 FCC Rcd 7485 (MMB 1987). In that proceeding, the petitioner was foreclosed from increasing its power because to do so would cause destructive interference to a television station operating on channel six. As in the instant proceeding, the reserved band was not available to the petitioner. The Commission noted that it had reserved a

commercial channel for non-commercial use "in order to preserve the availability of educational programming in the community." Id.

KMSM-FM is the sole source of public radio programming in Butte and the surrounding area. Grant of the instant petition would serve the public interest by allowing improved public radio service in Butte and would assure retention of the only outlet for public radio service in Butte. Id.

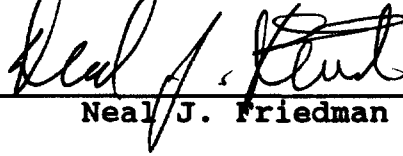
Grant of the instant Petition would not foreclose additional opportunities for commercial FM service at Butte. Attached as Exhibit 4 is a spacing study showing the availability of at least one additional Class A FM allocation at the reference point for Butte. Thus, the public interest will be served on both counts. Public radio service will be preserved and enhanced in Butte and there will be the continued availability of additional commercial service when and if it is needed.

For the forgoing reasons, the Montana College of Mineral Sciences and Technology respectfully requests grant of its Petition. If the Petition is granted, Petitioner will promptly apply for and construct the requested facilities.

Respectfully Submitted,

**THE MONTANA COLLEGE OF MINERAL SCIENCES  
AND TECHNOLOGY**

By



Neal J. Friedman

Its Attorney

**PEPPER & CORAZZINI**  
200 Montgomery Building  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 296-0600

November 1, 1993

**EXHIBIT 1**

**EVANS ASSOCIATES***Consulting Communications Engineers*

216 North Green Bay Road  
Thiensville, Wisconsin 53092-1884  
Telephone (414) 242-6000

October 8, 1987

Ms. Natalie Deringer  
Radio Station KMSM  
Student Union Bldg.  
Montana Tech  
Butte, MT 59701

Dear Ms. Deringer:

We have completed an engineering study to determine if KMSM can increase power and/or antenna height. Unfortunately, there is a problem with KTVM(TV) which operates on Channel 6 in Butte.

For several years it has been known that some FM stations operating in the educational portion of the band caused interference to a TV station operating on Channel 6. The interference was most severe if both facilities were located in the same city.

About 3 years ago, the FCC changed the criteria for the assignment of educational FM channels in or near cities in which a Channel 6 TV station is operating. Since Butte is one of those cities, there is a potential for interference between KMSM and KTVM-TV, and under the new rules, KMSM cannot increase its facilities unless it meets those criteria. One of those criteria for reducing possible interference to Channel 6 is to locate the FM antenna on the Channel 6 tower, or within 400 meters of it. There are also certain tradeoffs one can propose regarding population that will receive new interference.

(Continued on page 2)

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**EVANS ASSOCIATES**  
*Consulting Engineers*

Ms. Natalie Deringer

-2-

October 8, 1987

The Channel 6 problem is the only one preventing an upgrade of the KMSM facility on its present frequency. The present frequency is also one of the best insofar as Channel 6 is concerned. As I told you over the phone, there would be no problem in upgrading the KMSM facility if the antenna could be moved to the Channel 6 tower or within 0.25 mile of it. If you can make arrangements to do that, then we could prepare an application for a power increase. Our charge for that would be \$1,800.

If you have any questions, please call or write.

Very truly yours,



Ralph E. Evans, P.E.

REE:pw

Enclosures

.KMSM-MontanaTech



**EXHIBIT 2**

### DECLARATION

I, Ross Metcalf, General Manager of non-commercial educational FM station KMSM-FM, Butte, Montana, declare under penalty of perjury as follows.

The transmitter for KMSM-FM is presently located adjacent to our studios on the campus of the Montana College of Mineral Sciences and Technology. We are aware that Channel 6 interference to television station KTVN(TV) would be eliminated if we were to co-locate on their tower. This, however, would require the additional expense of a studio-transmitter link as well as leasing space on the KTVN(TV) tower. Additionally, it would be difficult and expensive to perform maintenance on the transmitter were it to be co-located at the KTVN(TV) site, which is atop a mountain. During the winter months, access is impossible except by specialized vehicles, which we would have to rent.

KMSM-FM operates on a limited budget of \$14,100 annually generated entirely from student fees imposed by the University and some occasional donations from local businesses. We are, therefore, unable to afford the expense of co-locating with KTVN(TV), even if that site were available to us.

I have read the attached Petition for Rule Making and it and the foregoing are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Ross Metcalf  
General Manager, KMSM(FM)

**EXHIBIT 3**

PEPPER & CORAZZINI  
200 MONTGOMERY BLDG. 1776 K ST. N.W. WASHINGTON DC 20006

KMSM-FM CHANNEL CHANGE

REFERENCE	CLASS A	DISPLAY DATES
46 00 43 N		DATA 09-29-93
112 33 23 W	Current rules spacings	SEARCH 10-20-93
----- CHANNEL 295 -106.9 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
KFTC.A	297C	Great Falls	MT	27.3	199.56	95.0	104.56
KTTC.C	297C	Great Falls	MT	27.3	199.56	95.0	104.56
ALOPEN	293C	Island Park	ID	151.5	204.91	95.0	109.91
AP293	293C	Island Park	ID	157.1	225.89	95.0	130.89
AD298	298C	Shelley	ID	169.0	279.53	95.0	184.53
AD292	292C2	Kalispell	MT	330.5	276.39	55.0	221.39
KZINFM	242C1	Shelby	MT	8.7	260.55	22.0	238.55
KDBR.C	292A	Kalispell	MT	330.5	276.39	31.0	245.39
DE292	292A	Kalispell	MT	330.5	276.39	31.0	245.39
KIDFM	241C	Idaho Falls	ID	181.7	279.55	29.0	250.55

**EXHIBIT 4**

PEPPER & CORAZZINI  
200 MONTGOMERY BLDG. 1776 K ST. N.W. WASHINGTON DC 20006

AVAILABLE ALLOCATION  
BUTTE, MONTANA

REFERENCE	CLASS A	DISPLAY DATES
46 01 06 N		DATA 09-29-93
112 31 11 W	Current rules spacings	SEARCH 10-20-93
----- CHANNEL 300 -107.9 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
KFTC.A	297C	Great Falls	MT	26.7	197.65	95.0	102.65
KTTC.C	297C	Great Falls	MT	26.7	197.65	95.0	102.65
AD298	298C	Shelley	ID	169.6	279.69	95.0	184.69
KALS	246C	Kalispell	MT	327.7	262.45	29.0	233.45